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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,468

05/11/2005

Mohammed Ghanbari

36-1902

7012

23117 7590 07/17/2009  
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EXAMINER

SENGI, BEHROOZ M

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

07/17/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,468	<b>Applicant(s)</b> GHANBARI ET AL.	
	<b>Examiner</b> BEHROOZ SENFI	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/22/2005, 12/20/2006</u> .                                   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It is noted that the invention as claimed is directed to "a method of transmitting a digital sequence of video signals". Such invention is non-statutory: Because; the invention as claimed is not falling within one of the four statutory categories of invention. Supreme Court precedent and recent Federal Circuit decisions indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example the invention fails to positively tie to another statutory class or structure by the inventive steps of the claim, such as device or apparatus recited within the claims to accomplish the method claimed.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 12-16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azadegan et al. (US 5,612,900).

Regarding claim 1, Azadegan teaches, a method of transmitting a digital sequence of video signals which have been encoded using a compression algorithm such that the number of coded bits per frame is not constant (i.e., figs. 12 and 14-18, abstract), comprising; dividing the sequence into segments, wherein the first segment is a portion at the beginning of the sequence which has an average number of coded bits per frame (i.e., col. 23, lines 55-65, col. 26, lines 22-44, e.g., portion with higher bit-rate consider as portion at the beginning of the sequence), determining a bit rate for each segment (i.e., figs. 14-18, cols. 21-22, lines 65-3 and col. 23, lines 25-35), transmitting the signals at the determined bit rates (i.e., fig. 1B).

Azadegan is silent in regards to explicit of, which is greater than or equal to the average number of coded bits per frame of any shorter such portion and wherein each succeeding segment is a portion immediately following the preceding segment which has an average number of coded bits per frame which is greater than or equal to the average number of coded bits per frame of any shorter such portion.

However, Azadegan (i.e., abstract, col. 23, lines 57-67) compares the video segments and also notes that, some portions of the video having higher bit-rate and portions having lower bit-rate with consideration of average and the maximum/minimum bit-rate; thus considered as either equivalent or rendered the claimed limitations obvious

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to one having ordinary skill in the art at the time of the invention was made, in order to have a fairly constant quality, as suggested by Azadegan (i.e., col. 23, lines 62-63).

Regarding claims 12-13, the limitations claimed are substantially similar to claim 1 above; therefore the ground fore rejecting claim 1 also applies here.

Regarding claim 14, Azadegan teaches a method according to claim 1 in which the bit rate determined for each of at least the later segments of the or a sequence is a number of bits per frame period equal to the average coded bits per frame for that segment (i.e., fig. 15, col. 26, lines 22-40).

Regarding claims 15-16, Azadegan teaches, a method according to claim 1 in which the bit rate determined for each of at least the later segments of the or a sequence is a number of bits per frame period equal to the lowest one of a set of permitted bit rates that is greater than or equal to a nominal rate for that segment, said nominal rate being the average coded bits per frame for that segment less any reduction permitted as a consequence of the determined bit rate for the preceding sequence being in excess of the nominal rate for that preceding segment (i.e., col. 23, lines 55-65 and col. 26, lines 22-37).

Regarding claim 19, Azadegan teaches transmission of the video signal as discussed in claim 1 above. Azadegan is silent in regards to explicit of, command requesting reservation of the determined bit rates. Examiner takes Official Notice to indicate that, command for requesting reservation of bit rates for transmission of video data is well known and used in the conventional prior art of real-time data transmission over the net work, as evidenced by, Ueno et al. (US 5,991,811, col. 18, lines 55-col. 19,

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lines 16). Therefore; it would have been obvious to one having ordinary skill in the art at the time of the invention was made to implement such known feature, in order to improve the efficiency of communication and decrease service costs, as suggested by Ueno (col. 3, lines 37-40).

### ***Contact***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Behrooz Senfi whose telephone number is 571-272-7339. The examiner can normally be reached on M-F 7:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Behrooz Senfi/

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Primary Examiner  
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